

In the Supreme Court of the United States.

OCTOBER TERM, 1896.

WILLIAM FAXON, JR., TRUSTEE, ET AL.,	} No. 430.
appellants,	
v.	
THE UNITED STATES AND GEORGE W.	
Atkinson et al.	

MOTION TO ADVANCE.

Now comes the Solicitor-General and moves on behalf of the United States that the above-entitled cause be advanced and set down for hearing on such day as to the court may seem proper.

The decree appealed from was rendered in the Court of Private Land Claims at the March Term, 1895, Arizona District.

It appears from the record that three several petitions were filed, to wit: By William Faxon, trustee, et al., D. G. Astiazaran et al., and George Hill Howard against the United States et al., the petitioners in each claiming to be the owners in fee simple, holders and possessors of

a certain tract of land commonly known as the Tumacacori Calabasas and Huebabi grant or private land claim, lying and being in the county of Pima and Territory of Arizona.

These causes or proceedings were consolidated and heard together in the Court of Private Land Claims. (Rec., 24.)

The decree appealed from (Rec., 328) held that the claims set up and asserted in the several petitions were—

Neither of them sustained by sufficient proof, and that the title to said grant so claimed and asserted as having been originally granted by the Republic of Mexico, through Ignacio Lopez, the treasurer-general of the Department of Sonora, to one Francisco Alejandro Aguilar and bearing date the 19th day of April, 1844, is null and void and not such a title as the United States is bound to recognize and confirm.

It was "therefore, adjudged, ordered, and decreed that the claim to the property known as * * * be, and the same is hereby, rejected, and said petitions are dismissed."

The Secretary of the Interior advises the Attorney-General that on the land involved in the case known as the Tumacacori, Calabasas, and Huebabi grants, and situated in Pima County, southern Arizona, there are large quantities of valuable timber; that for some time past timber has been taken therefrom, and that this is still going on; that no court in the Territory, save that of Private Land Claims, has any jurisdiction over an

unconfirmed Mexican land grant, and it has been impossible to punish or stop the trespass. * * * As the Government, however, is interested in the preservation of timber on all lands within its boundaries, and the decision of the court in favor of the United States would place the land within the public domain, I would, if no motion has heretofore been made to the court, recommend the question of stipulation to your favorable consideration.

The object, then, of the motion on behalf of the United States to advance this cause on the docket is to secure an early decision and, if the decree below is affirmed, secure thereby the United States from further loss from the destruction of timber on this portion of the public domain.

HOLMES CONRAD,
Solicitor-General.